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Patent Department
Swidler Berlin Shereff Friedman, LLP
Suite 300
3000 K Street, N.W.
Washington DC 20007

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Technology Center 2100

In re Application of: CHARLES A. PRICE, ET AL.)

Application No.: 09/785,008)

Filed: February 16, 2001)

For: **SYSTEM AND METHOD FOR REMOTELY
CONFIGURING TESTING LABORATORIES**)

**DECISION ON PETITION FOR
ACCELERATED EXAMINATION
UNDER M.P.E.P. §708.02(VIII)**

This is a decision on the petition, filed April 18, 2004 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election **without traverse** as a prerequisite to the grant of special status.
- (C) Submits a statement(s) that a pre - examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a **detailed discussion** of the references, which discussion points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is patentable over the references.

In those instances where the request for this special status does not meet all the prerequisites set forth above, applicant will be notified and the defects in the request will be stated. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects, applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Group Special Program Examiner.

Petitioner's submission is deficient in that it does not comply with items (B), and (E) above:

(1) The petition does not contain the statement that Petitioner will make an election *without traverse* if the Office determines that all claims are not obviously directed to a single invention as required by item (B) above.

(2) Petitioner's submission does not provide a **detailed** discussion of the references, which points out, with the **particularity** required by 37 CFR 1.111(b) and (c), **how** the claimed subject matter is **patentable over the references**. Petitioner's submission provides short summaries (3 to 4 lines) of cited references, and generally concludes that each reference "does not, however, appears to teach or suggest creating a network topology description for a test scenario, scheduling the execution of a test scenario or executing a test scenario" (emphasis added). The use of the terms "appears to disclose" and "does not ... appear to teach" in the Petitioner's discussion implies some doubt about the existence of the claim elements. In addition, Petitioner's submission discusses "**test scenario**," which is not a claim limitation in any independent claims. Short summaries of cited references, the use of the terms "appears to disclose" and "does not ... appear to teach," and the main discussion being about elements which are not claimed, without more, do not comply with the above-mentioned item (E).

Accordingly, the Petition is **DISMISSED**. The application file is being forwarded to Central Files to await examination in its proper turn based on its effective filing date. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.



Bot LeDinh, J.D., Ph.D.
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(703) 305-0651